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AN ACCOUNT
OF THE
MANUSCRIPTS OF GEN. DEARBORN,

AS MASSACHUSETTS COMMISSIONER IN 1838 AND 1839
FOR THE SALE OF THE

SENECA INDIAN LANDS

IN THE
STATE OF NEW YORK.

READ BEFORE THE ALBANY INSTITUTE, OCTOBER 12TH, 1880,

BY

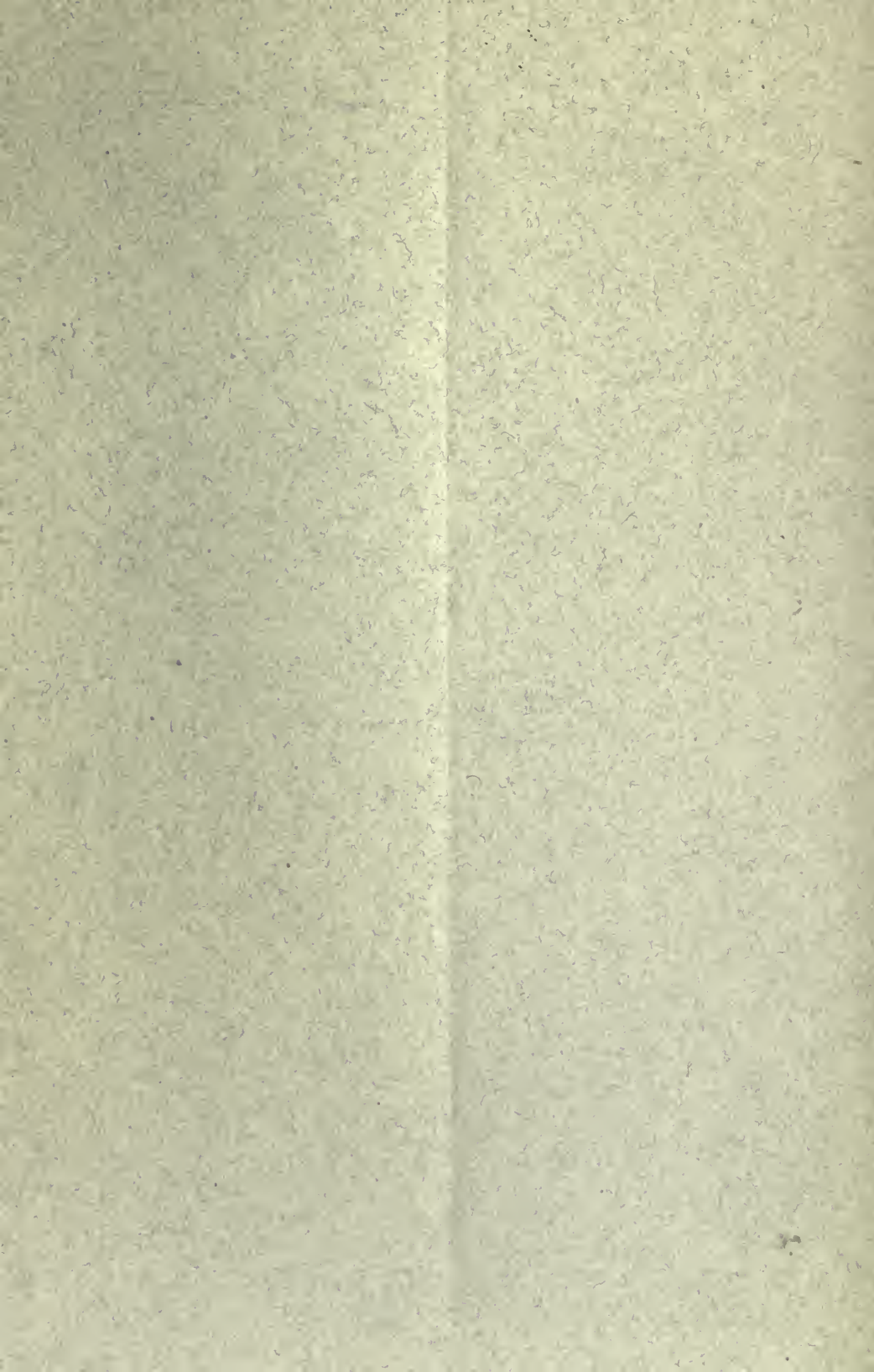
HENRY A. HOMES, LL. D.,

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AN ACCOUNT OF THE MANUSCRIPTS OF GEN. DEARBORN
AS MASSACHUSETTS COMMISSIONER IN 1838 AND 1839,
FOR THE SALE OF THE SENECA INDIAN LANDS.

BY HENRY A. HOMES, LL.D.

[Read before the Albany Institute, October 12, 1880.]

At a sale at auction, in Boston, in October, 1878, of books and manuscripts from the library of J. W. Thornton, one of the titles in the catalogue, describing the articles offered for sale, read as follows:

“Journal of a Mission as Commissioner from the State of Massachusetts to the Seneca and Tuscarora Indians; and an account of the treaties held with those tribes, in the years 1838 and 1839, for the sale of their lands, and for their emigration west of the Mississippi. By H. A. S. Dearborn, Superintendent of Massachusetts. In 3 vols. 4to.”

It was thought that these volumes might be worth securing for our State Library. I wrote to Hon. Lewis H. Morgan of Rochester, to obtain his opinion as to their probable value. You are all well aware of Mr. Morgan's extensive acquaintance with New York Indian History. His well-known volume, “The League of the Iroquois,” gives their history, religion and customs with a touching eloquence. In answer, he referred me for explanation to a passage in this volume. From this extract, and from the manuscripts themselves, I learned that they referred to a treaty of the United States with the Seneca and Tuscarora Indians in the extreme western part of this State, whereby 119,000 acres of their lands were to be sold, and they were to emigrate to Green Bay, Michigan. But the measures by which the treaty with the Indians had been secured were represented to have been tainted with so much corruption and fraud, there was so much opposition on the part of the Indians themselves to emigrating, they were supported in their opposition by so many friends, especially by the Society of Friends, that the purchasers, the Ogden Land Company, finally made a compromise, and yielded up to them more than half of the land which they had purchased.

This transaction was painted by Mr. Morgan, in the passage to which he referred me, in very sombre colors. I quote a portion of it as illustrative of the nature and importance of the subject:

“The darkest frauds, the basest bribery, and the most execrable intrigues which soulless avarice could suggest have been practiced in

open day, upon this defenseless and much-injured people. The natural feelings of man and the sense of public justice are violated and appalled at the narration of their proceedings. * * * The Georgia treaty with the Cherokees, so justly held up to execration, is a white page compared with the treaties of 1838 and 1842, which were forced upon the Senecas. This project has already, however, in part, been defeated by the load of iniquity which hung upon the skirts of these treaties.”*

In another passage, in the same volume, he remarks:

“The (United States) government bartered away its integrity to minister to the rapacious demands of the Ogden Land Company.”†

The author is an adopted member of the Seneca tribe.

In view of this and similar declarations, I concluded that it was certainly for the interest of the State, that in a transaction where the good name of the United States, of Massachusetts and of New York, were all more or less implicated, the original documents belonging to one of the chief parties to the transaction, the State of Massachusetts, should enter into the *possession* of the State of New York. And accordingly, the three volumes, of about 1,100 pages of manuscript, letter-sheet size, were purchased at the auction for about twenty dollars each. On examination, I found them to be a valuable addition to the historical records of the State, and well worthy of being preserved for reference.

Before describing the *MSS.*, let me very briefly mention a few of the antecedent historical facts regarding our relations with these Indians, for the sake of some of the younger members in the audience, who may not be familiar with them. Massachusetts and New York, under their original powers from Great Britain, claimed jurisdiction from their western boundaries to the Pacific ocean. This interfering claim of Massachusetts was settled by an agreement or contract of that State with New York, December 16, 1786, at Hartford, Conn., by which the territorial jurisdiction of New York was acknowledged, while Massachusetts only retained the right to buy the 4,000,000 acres which she claimed, from the Indians, at such times as they were willing to sell. This pre-emptive right was one which Massachusetts could dispose of in portions to other parties. The first great sale was made to Messrs. Phelps & Gorham, in 1788, and next in time, 1,250,000 acres to Robert Morris, the great financier, the nation's great benefactor, in 1791. He formed the Holland Land Company to facilitate the sale of the land. It was this purchase which brought upon Morris those financial embarrassments which could and did

*Morgan's League of the Iroquois, Roch., 1851, p. 33. †The same, p. 458.

confine him for three long years in a debtor's prison, uttering bitter words against some of his creditors; and the country was too poor to relieve him.

It was after the Big Tree Treaty at Geneseo, in 1797, (of which treaty there is an official copy in the State Library), a treaty in which Robert Morris and Thomas Morris, his son, participated, that the Indians ceded the title to a large portion of their lands. In view of his embarrassments, Morris organized the North American Land Company, in which Nicholson and Greenleaf were partners. He accused the latter of cheating him, and of being the occasion of his becoming the inmate of a prison.*

The Indians after that treaty were gradually in the extreme western part of the State disposing of their lands to eager purchasers. At last, the invasion of a white population all around the four reservations of Allegany, Buffalo, Cattaraugus and Tonawanda, which contained in all only about 119,000, of an original 6,000,000 acres, excited the earnest desire of those who had purchased the pre-emptive right from Massachusetts, now called the Ogden Company, and who were the successors of Robert Morris and his associates, to enter into possession of these Indian lands by purchase. In their general aim, they were sustained by the policy of the United States. President Van Buren, in a message to Congress, in December 1837, urged the removal of these Indians, declaring that it had been the "fixed policy of the government from the days of the administration of Jefferson, in 1804, to remove the Indian west of the Mississippi;" and in his special message of January 14, 1840, he states that 40,000 Indians had been removed there since 1837 from different States.†

In 1838 a law of the United States for carrying into effect a treaty which had been adopted by the Senate for the emigration of the New York Indians, was amended, the treaty not having been accepted by the Senecas. In the summer of this year, the Ogden Company notified the Governor of Massachusetts, Mr. Everett, that a council was to be held at Buffalo Reservation with the Indians, for the acceptance of this treaty, whereby that company would become the purchaser of the Indian title, and asked that Massachusetts should be present by her superintendent, according to the terms of the agreement with New York in 1786, and meet the United States commissioner to protect her own rights and those of the Indians.

*Doty's Livingston's County History. 8vo. 1876.

†This message will not be found in Williams' Statesman's Manual; but was a special message and must be sought for only in the journals of the Senate.

Governor Everett appointed, as such superintendent, Gen. Henry A. S. Dearborn. He was son of Gen. Henry Dearborn, who had been engaged in the battle of Bunker Hill, and in Sullivan's campaign in New York in 1779, had been Secretary of War from 1801 to 1809, and finally had held command in the war of 1812, chiefly on the frontiers of the State of New York and Canada. His son the commissioner also had been a public servant during a large part of his life, had been Adjutant-General of the State of Massachusetts for ten years, from 1834 to 1843, and for five years was mayor of the city of Roxbury, from 1847 until his death in 1851. He was a man of large experience, of high honor and integrity.

He attached great importance to the functions which he discharged in 1838 and 1839 as Massachusetts commissioner at the Buffalo Creek council, to superintend the disposal of the Indian lands; and in his leisure hours in the following years he collected and personally arranged all his original manuscripts connected with this mission, and bound them into three quarto volumes of letter sheet size of about three hundred and sixty pages each.

Of these volumes, the first one contains eighteen original letters from Gov. Everett, chiefly to Gen. Dearborn, and eighteen letters chiefly to the Governor from Gen. Dearborn; the treaty with the several tribes; the official report to the Governor of his first mission commencing August, 1838, with an appendix of documents, embracing statements of the chiefs, Judge Stryker's statement, in all about one hundred and fifty pages; a second report of his second mission later in the same year, in November and December, with the documents, making about fifty pages; several letters from Mr. Ogden of the Ogden Company to Gen. Dearborn, and various other letters. I have not found either of these reports in print among the documents of the State of Massachusetts.

The second volume bears a title given by Gen. Dearborn, the same title which was given to all the three volumes in the printed catalogue of the MSS. as sold at the auction sale, and which we quoted at the beginning of this paper.

If the preceding reports are not sufficient to give us a clear view of the part taken by Massachusetts in a treaty which has been said to compromise both her honor and that of New York, we have in addition for testimony in this volume, three hundred and fifty-six pages filled with Gen. Dearborn's private "Journal of a Mission to the Senecas" as written down by him from day to day, containing all the occurrences from the hour of his departure until that of his

return to Boston, names of the individuals with whom he conversed, and notes of his conversations with them.

The third volume contains a similar private journal of his second mission in November and December, 1838, of about one hundred pages; and also a journal of a tour to Cattaraugus on a branch of the same subject in 1839 to meet the Secretary of War, J. R. Poinsett. There are also bound up with these journals, letters from Ransom H. Gillet, the United States commissioner; from N. T. Strong, a Seneca chief; several from the Secretary of State of Massachusetts; many from Honnondeah, a chief, son of N. T. Strong; more letters from Gov. Everett, and from T. L. Ogden; and finally as cumulative testimony, that nothing might be wanting for the most thorough presentation of the whole case, and not the least light and shade be lacking to complete the picture, this last volume contains the identical letters which Gen. Dearborn mailed from day to day during his absence to Mrs. Dearborn, to the number of twenty-nine, covering eighty-seven pages. They bear the postmarks, and have apparently been preserved without diminution or erasure, and in them he speaks without reserve of the minutiae of the affair in which he was engaged. The three volumes as a whole present every phase of the transactions in question, as they came before the Massachusetts commissioner.

The transactions treated of in these volumes did not awaken a national interest, like the removal of the Indians from Georgia in 1829, an event commemorated in volumes entitled *Speeches on the Indian Bill*, 1830, and *Essays on the Present Crisis, etc.*, signed William Penn, by the father of William M. Evarts, and published in 1829. Still they occasioned the printing of as many as fifteen pamphlets at least, by different parties, between the years 1840 and 1845, large extracts from some of which were published in England. Most of these emanated from those who represented the Indians as greatly wronged, especially from the yearly meetings of the Society of Friends. The substance of the complaint of these latter was, that the alleged treaty was fraudulent; that usage and the law of 1838 required that the consent of the chiefs should have been obtained in open council; but that after obtaining the consent of a small minority in open council, the United States commissioner had obtained the consent of the rest, singly, and not in council; that bribery had been freely used with individuals to secure their consent; that of the 2,000 Senecas not 150 were desirous of going west, counting men, women and children, and that all the

remainder, including a majority of the chiefs, were determinedly opposed to leaving their homes.

It appeared that Mr. Gillet had informed the Indians that, under the amended treaty of 1838, he thought that if they should reject it they could none the less be compelled to go to the West. Gen. Dearborn, however, speaking in the name of the Governor of Massachusetts, assured them that they would not be compelled to go.*

But on the point of the necessity of securing the consent of the chiefs in open council, after the treaty had once been submitted to them there, and had been debated, it appears that the suggestion had proceeded from Gen. Dearborn himself to Mr. Gillet, that he would do well to call the chiefs, individually, to his room and confer with them there. The reason for his making this suggestion was, that he was persuaded that nearly all the violent opposition to the treaty proceeded from interested whites, who wished to have the Indians retained on their reservations, for the sake of mill privileges and lumber privileges for which they paid very little; or for some other motive of no greater significance, such as that the Indians were pecuniarily indebted to them. Gen. Dearborn observes in his journal, that if the same offers were made to any laboring whites which were made by the United States Government to these Indians, they were so liberal that men would abandon any homes to avail themselves of them.

He writes thus upon this branch of the subject:

"To reason with the ignorant, and attempt to do good to the prejudiced, suspicious and most debased of the human species, is to labor without results either gratifying to us or beneficial to them. Here has been a boon offered which would depopulate any country town in New England, and hurry them to the West with glad and grateful hearts; but the miserable savages are incapable of appreciating the generous humanity of the Government."

As evidence that the Indians were most bountifully dealt with by the United States, the following figures are presented by Gen. Dearborn as the money value of what was offered in exchange for the 119,000 acres of land by the parties interested. They were offered 1,824,000 acres of land at Green Bay, which, at \$1.25 an acre, was worth \$2,280,000. The amount to be given them in money was \$433,500; the amount to be paid them by the Ogden Company was \$211,600; the amount for exploration of the new territory was \$16,000. This made a total sum of about \$3,000,000 to the two tribes.†

* Dearborn MSS. II, 97, 98, 99.

† Dearborn MSS., 112, 126.

On January 14, 1840, President Van Buren sent the treaty thus tainted with allegations of fraud, with a special message of six pages on the subject, to the Senate. (It will not be found in the collection of his messages in Williams' Statesman's Manual, but must be sought for in the journals of the Senate.) He speaks in favor of the general proposition of the removal of the Indians, but declares that in his opinion the signatures had been fraudulently obtained, and that therefore the treaty ought not to be ratified. The question was debated on eleven different days in the Senate; and finally, after the failure of many proposed resolutions from Tallmadge, Clay, Preston, Porter and others, the vote stood nineteen to nineteen, and the treaty was only ratified by the casting vote of R. M. Johnson, the Vice-President, in the affirmative. The New York Senators, Messrs. Tallmadge and Wright, voted in the affirmative. The differences of opinion were not on party lines, though Mr. Clay voted in the negative. Mr. Sevier in 1840 presented a memorial of sixty-seven chiefs of the Senecas, begging that no appropriation be made to carry out the treaty, as they did not intend to leave their homes in New York. In 1841 six or seven petitions were presented in Congress that the Indians in New York be forcibly removed. In a few days the committee was discharged from further consideration of the petitions.

In Massachusetts, Governor Everett, in his message in 1839, expressed the opinion that if the State had known all that it had since learned, it would not have consented to the request of the Ogden Company. A committee of the Senate reported in the same spirit, but expressed the opinion that it was too late to attempt to reverse the action which had taken place.

The testimony of W. H. Seward, at the time Governor of New York, corroborates the declarations of President Van Buren that the treaty was obtained by corruption. Gov. Seward, in a long private letter on the subject, dated Albany, June 15, 1841, writes:

"I am fully satisfied that the consent of the Senecas was obtained by fraud, corruption and violence, and it is therefore false, and ought be held void. The removal of the Indians, under a treaty thus made, would be a great crime against an unoffending and injured people; and I earnestly hope that before any further proceedings are taken to accomplish that object, the whole subject may be reconsidered by the United States."* He also said that the treaty of the United

* Quoted from "A Further Illustration of the Case of the Seneca Indians:" Phila., 1841, 9, p. 80.

States with the Senecas was made in open violation of the settled policy of New York in dealing with them.

The final result of all the negotiations and disputes was, that very few of the Senecas or Tuscaroras removed beyond the Mississippi; and the Ogden Company, in view of the various difficulties which were raised in their path, consented to a compromise, by which the Senecas retained 52,000 acres of the 119,000 in controversy, being the two reservations which they now possess in Allegany and Cattaraugus counties. This act was what is called the treaty of 1842.

In consequence of these treaties of 1838 and 1842, there occurred a revolution in the Seneca tribe. They adopted something like a constitution and new laws, with a complete system of government. A very valuable report made to the Legislature, January 22, 1857, from the judiciary committee of the Senate, represents the rights of the Senecas to their lands as absolute, through a series of conveyances down to that date from the State of Massachusetts, from Phelps and from Morris; and that no parties had now any pre-emptive rights in their lands. Thus out of the law of 1838 and the treaty of the same year had proceeded the law of 1845 of the State of New York, which guaranteed to the Senecas their lands. So that if that treaty was evil, a power for good has been seen to proceed from things evil in this case, as in multitudes of other cases in human affairs.

I have not been so rash as to form an opinion as to the expediency or justice of these transactions with so little opportunity of studying them. The facts are many, and the documents are voluminous. So far as New York alone is concerned, I had little occasion to be solicitous. Her relations to the Indians under her jurisdiction are abundantly justified by the Society of Friends, who constituted themselves the special agents to defend their rights in this very case. In the report of the joint committee of four yearly meetings in 1847, six years after the close of the dispute, they acknowledge explicitly the kindness of New York to the Indians within her jurisdiction. They say:

"The uniform justice and compassion of New York toward the Six Nations who were located on its territory present in retrospect one of the most pleasant scenes on the pages of our history."*

It may be felt by some that these Dearborn documents refer to dead issues, and that they have no relation to the live questions of the day, and are therefore worthless. Still, if the value put upon historical researches be not a delusion, if to secure the materials by means of

* Proceedings of Joint Committee, 1847.

which to maintain the good repute and honor of a State, and thus guard against a blot upon her escutcheon, be a worthy aim, then I think that to be in possession of the complete papers of Massachusetts, acting under the authority of the United States and of New York, in a transaction where some have impugned the honor and justice of New York, is a valuable acquisition to the records of the State. If Massachusetts cared not for these papers, yet the day may come when New York may be glad to appeal to these documents, making Massachusetts to be a witness, to justify her treatment of the Indian denizens within her jurisdiction.

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